

*Orig*

(16)  
2-2-01  
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RYAN MICHAEL KERWIN : CASE #: 1:CV-00-1986

VS. : JUDGE WILLIAM W. CALDWELL

S.C.I. SMITHFIELD,

ET. AL DEFENDANTS

**FILED**  
HARRISBURG, PA

FEB 1 2001

MARY E. D'ANDREA, CLERK  
Per *[Signature]*  
Deputy Clerk

CLERK OF COURT,

ENCLOSED IS THE FORM YOU SENT ME TO AMEND MY 1983 CIVIL COMPLAINT.  
I AM FILING THIS MOTION NOT TO BE USED ALONE BUT IN ADDITION TO MY  
ORIGINAL CIVIL COMPLAINT.

RYAN KERWIN

D20246

## FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIADZ0246  
(Inmate Number)RYAN KERWIN  
(Name of Plaintiff)1:CV-00-1986  
(Case Number)S.C.I. SMITHFIELD P.O. BOX 999  
(Address of Plaintiff)1120 PIKE ST. HUNTINGDON, P.A. 16652

## COMPLAINT

vs.

S.C.I. SMITHFIELD,(ET. AL DEFENDANTS)(DEFENDANTS LISTED IN PARAGRAPH III)  
(Names of Defendants)TO BE FILED UNDER: ☒ 42 U.S.C. § 1983 - STATE OFFICIALS☐ 28 U.S.C. § 1331 - FEDERAL OFFICIALS

## I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

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## II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?

☒ Yes ☐ No

- B. Have you filed a grievance concerning the facts relating to this complaint?

☐ Yes ☒ No

If your answer is no, explain why not A GRIEVANCE IS NOT AN OPTION IN THIS  
INSTANCE. HOWEVER, ALL INSTITUTIONAL REMEDIES WERE EXHAUSTED.

- C. Is the grievance process completed? ☐ Yes ☒ No

## III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

- A. Defendant (ALL DEFENDANTS ARE) is employee  
as DISCIPLINARY  
CUSTODY AUTHORITIES at S.C.I. SMITFIELD & OFFICE OF  
CHIEF COUNSEL
- B. Additional defendants ROBERT S BITNER, OFFICE OF CHIEF COUNSEL; JAMES M  
MORGAN, SUPERINTENDANT OF S.C.I. SMITFIELD; (PROGRAM REVIEW  
COMMITTEE) A.C. BIVIANO, DEPUTY FOR CENTRALIZED SVS.; M HARLOW,  
CAPTAIN; F.R. ROYER, A/CORR CLASS AND PROGRAM MANAGER

## IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. (STATEMENT OF CLAIM ALONG WITH ACCOMPANYING EXHIBITS ARE  
ATTACHED TO ORIGINAL COMPLAINT AND THE PETITION I FILED TO  
AMEND IT)

2.

3.

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite cases or statutes.)

1. I AM ASKING TO BE ABLE TO SUE ALL THE DEFENDANTS IN THIS CASE IN THE  
OFFICIAL AND INDIVIDUAL CAPACITY FOR ONE OR ALL OF THE FOLLOWING  
DAMAGES (COMPENSATORY, NOMINAL, PUNITIVE, EXEMPLARY) IN EXCESS OF  
\$4,200.00 AS WELL AS <sup>FOR</sup> FUTURE ATTORNEY FEES

2.

3.

Signed this 29 day of JANUARY, 2001

Roman H. Durkin  
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

1/29/01  
(Date)

Roman H. Durkin  
(Signature of Plaintiff)

**FORMS TO BE COMPLETED BY PRISONERS FILING A CIVIL RIGHTS  
COMPLAINT UNDER 42 U.S.C. § 1983 or 28 U.S.C. § 1331**

**COVER SHEET**

THIS COVER SHEET CONTAINS IMPORTANT INFORMATION ABOUT FILING A COMPLAINT AND YOUR OBLIGATIONS IF YOU DO FILE A COMPLAINT. READ AND COMPLETE THE COVER SHEET BEFORE YOU PROCEED FURTHER.

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The cost for filing a civil rights complaint is \$150.00.

If you do not have sufficient funds to pay the full filing fee of \$150.00 you need permission to proceed *in forma pauperis*. However, the court will assess and, when funds exist, immediately collect an initial partial filing fee of 20 percent of the greater of:

- 1) the average monthly deposits to your prison account for the past six months; or
- 2) the average monthly balance in your prison account for the past six months.

Thereafter, the institution in which you are incarcerated will be required to make monthly payments of 20% of the preceding month's deposits credited to your account until the entire filing fee is paid.

**CAUTION: YOUR OBLIGATION TO PAY THE FULL FILING FEE WILL CONTINUE REGARDLESS OF THE OUTCOME OF YOUR CASE, EVEN IF YOUR COMPLAINT IS DISMISSED BEFORE THE DEFENDANTS ARE SERVED.**

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1. You shall file a complaint by completing and signing the attached complaint form and mailing it to the Clerk of Court along with the full filing fee of \$150.00. (In the event attachments are needed to complete the allegations in the complaint, no more than three (3) pages of attachments will be allowed.) If you submit the full filing fee along with the complaint, you DO NOT have to complete the rest of the forms in this packet. Check here if you are submitting the filing fee with the complaint form. \_\_\_\_\_

2. If you cannot afford to pay the fee, you may file a complaint under 28 U.S.C. § 1915 without paying the full filing fee at this time by completing the following: (1) Complaint Form; (2) Application To Proceed In Forma Pauperis; and (3) Authorization Form. You must properly complete, sign and submit all three standard forms or your complaint may be returned to you by the Clerk of Court. Check here if you are filing your complaint under 28 U.S.C. § 1915 without full prepayment of fees. \_\_\_\_\_

**Please Note:** If your case is allowed to proceed and you are awarded compensatory damages against a correctional facility or an official or agent of a correctional facility, the damage award will first be used to satisfy any outstanding restitution orders pending. Before payment of any compensatory damages, reasonable attempts will be made to notify the victims of the crime for which you were convicted concerning payment of such damages. The restitution orders must be fully paid before any part of the award goes to you.

**DO NOT DETACH THE COVER SHEET FROM THE REST OF THE FORMS**